

### **Remarks**

This is in reply to the official action of June 24, 2009 in which there is a restriction requirement and an election of species requirement.

The restriction requirement is between Group I, claims 1-18, for a combined cosmetic or therapeutic preparation and Group II, claims 19-20, for a method for production of a preparation.

The restriction is on the basis that there is no common special technical feature common to the groups because "Belcaro" teaches a composition as described in the claims.

The claims have now been amended so that Becaro does not disclose or suggest any of the amended claims. In particular, all amended claims require the presence of "a microcirculation-promoting substance" in both the claimed preparation and the claimed method. Becaro does not disclose or suggest any composition including such a component. The presence of a microcirculation-promoting substance in combination with the other components thus constitutes a "special technical feature" common to all amended claims.

Group I, claims 1-3, and 6-18 and new claims 21-23 include in this group are elected with traverse.

The election of species requirement, due to the permutations and combinations of the requirement, is not completely understood. The species where the preparation contains a "microcirculation promoting substance" and a "vasoprotective agent" is elected with traverse. As an example of microcirculation promoting substance "caffeine" is elected with traverse and as an example of vasoprotective agent, "aescin" is elected with traverse.

As a reason for species election with traverse, new claim 23 is illustrative of this species and claims 1-23 are generic to this species.

In view of the foregoing, and the fact that the process claims have been amended to clearly include the limitations of product claim 1, the restriction requirement should be withdrawn.

Further, the election of species requirement should be withdrawn since all claims are generic to the elected species. Upon allowance of a generic claim, all species to which the allowed generic claim is generic should be rejoined.

Respectfully submitted,



Michael L. Dunn

Registration No. 25330

CUSTOMER NO. 49003

Simpson & Simpson, PLLC

5555 Main Street

Williamsville, NY 14221-5406

Telephone No. 716-626-1564

Dated: July 24, 2009

MLD/MJK